

State Board of Equalization
OPERATIONS MEMO
For Public Release

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SUBJECT: Senate Bill 1100 – Tax Amnesty

I. PURPOSE

This Operations Memo provides guidelines and procedures for the implementation of Revenue and Taxation Code (RTC) sections 7070-7078, enacted by Senate Bill 1100 (Stats. 2004, Chapter 226). Section 7070 requires the State Board of Equalization (Board) to develop and administer a sales and use tax amnesty program.

This memo was revised to provide information not included in the original memo, particularly with regard to post-amnesty policies and procedures. All revisions are identified with revision marks in the margin.

II. BACKGROUND

Under provisions of Senate Bill 1100, a tax amnesty program is authorized for the two-month period beginning February 1, 2005 and ending March 31, 2005 (“amnesty period”). Amnesty applies to both sales and use tax and to franchise and income tax. Provisions for the sales and use tax amnesty program are included in RTC sections 7070 through 7078.¹

Sales and use tax liabilities that were due and payable for tax reporting periods beginning prior to January 1, 2003 (“eligible tax reporting periods”) are eligible for amnesty. The amnesty statutes require that participating qualified taxpayers file all applicable returns and make all payments by May 31, 2005, that is, no later than 60 days after the end of the amnesty period, for eligible tax reporting periods. The only payment exception is for taxpayers that have entered into amnesty installment payment agreements (IPAs), which must be entered into by May 31, 2005 and completed by June 30, 2006. The following criteria apply to amnesty:

A. QUALIFIED TAXPAYERS

Both retailers and consumers may apply for amnesty. Retailers include both those located in the state and those located outside the state who are engaged in business in this state and who have made retail sales into the state. Retailers may request amnesty on any existing unpaid liability, unreported, and/or underreported retail sales and purchases occurring in eligible tax reporting periods. Consumers may request amnesty for purchases made during eligible tax reporting periods of vehicles, vessels, aircraft, or any

¹ RTC 6592 was also amended to include relief of amnesty penalties (RTC 7073 and 7074) upon excusable delay.

other tangible personal property purchased for use in this state. Qualified taxpayers include persons that:

1. Have not filed one or more required tax returns or reported tax for a taxable sale or purchase, whether as a registered or unregistered retailer or consumer (“nonreporters”),
2. Have underreported sales or purchases on previously filed tax returns (“underreporters”),
3. Have not paid a liability previously reported to the Board because they filed unpaid or partially paid returns (“nonpayers”),
4. Have not paid a liability determined by the Board, whether final or non-final (“nonpayers”),
5. Are in bankruptcy. However, a taxpayer must disclose its bankruptcy case if it is still open with the bankruptcy court. Also, if a taxpayer’s amnesty payment requires bankruptcy court approval, a taxpayer must submit with the amnesty application a copy of a bankruptcy court order authorizing such payment during the amnesty period.

A taxpayer does not qualify to participate in amnesty for any tax-reporting period beginning prior to January 1, 2003, for which:

- Criminal court proceedings have been initiated against the taxpayer, or
- The taxpayer has been notified of a criminal investigation, either through the filing of a complaint or through a written notice of such an investigation mailed to the taxpayer.

B. ELIGIBLE PERIODS

For an *underreporter* or *nonreporter*, amnesty generally applies to those periods still open under existing statutes of limitation on August 16, 2004, the effective date of the amnesty legislation (see Statute of Limitation section II.C.). These periods are illustrated in Table 1.

TABLE 1

Periods of Eligibility for Underreporters and Nonreporters^{1, 2}							
Year	1996	1997	1998	1999	2000	2001	2002
Underreporters	None	None	None	None	None	3Q01 & 4Q01 7/01/01 through 12/31/01	All
Nonreporters	3Q96 & 4Q96 7/01/96 through 12/31/96	All	All	All	All	All	All

- 1 This table is intended to provide general guidance with respect to reporting periods eligible for amnesty. Each taxpayer's situation must be reviewed on a case-by-case basis since reporting periods older than those identified above could be open due to a waiver of the statute of limitation (form BOE-122) in place as of August 16, 2004 or the existence of fraud or intent to evade. Additionally, some periods which would ordinarily be eligible for amnesty may not be eligible due to a criminal investigation or court proceeding as provided by RTC section 7072(b).
- 2 With regard to use tax on the purchase of a documented vessel or aircraft bought prior to January 1, 2003, the Board may issue a determination as late as ten years after the tax was due. For example, if a taxpayer purchased a large sailboat from a private party in August 1995 and did not report and pay use tax, the Board can issue a determination as late as August 31, 2006 – ten years after the August 31, 1996 due date.

Statutory provisions authorize amnesty for tax liabilities in tax reporting periods beginning prior to January 1, 2003. Months following December 31, 2002 may be eligible for amnesty if included in a fiscal year reporting beginning prior to January 1, 2003. If a taxpayer's fiscal year reporting is July 1, 2002 to June 30, 2003, the entire reporting period is eligible for amnesty because the reporting period started prior to January 1, 2003, regardless of when the tax liability was due. For the same reason, a tax liability due January 31, 2003, for calendar year 2002, is eligible for amnesty.

For *underreporters* and *nonreporters*, amnesty may also apply to periods prior to those shown in Table 1. *Underreporters* may apply for amnesty for any periods still open as a result of waivers of limitation. For example, a taxpayer is being audited for the period January 1, 1995 through December 31, 1998, and all periods are still open due to waivers of limitation or due to statutes of limitation open on August 16, 2004. The taxpayer can apply for amnesty on all the periods under audit.

Nonpayers may apply for amnesty on any tax, interest, or penalty remaining unpaid as of the start of amnesty as long as the tax liability was incurred in an eligible tax reporting period. For example, a taxpayer is petitioning a Notice of Determination for the period October 31, 1996 through July 31, 1999, which is not final on February 1, 2005. The taxpayer may apply for amnesty for all periods included on the Notice of Determination as well as any other tax liabilities underreported or not reported in those periods.

Qualified taxpayers having tax liabilities or unpaid balances with the Board for periods beginning both before and after January 1, 2003 may apply for amnesty only for eligible tax reporting periods. For example, a quarterly taxpayer has an audit, petition, settlement or offer in compromise on liabilities that have occurred during various quarters in 2001, 2002 and 2003. Only the quarters in 2001 and 2002 are eligible for amnesty.

C. STATUTE OF LIMITATION

The tax amnesty program establishes a ten-year statute of limitation on liabilities assessed by the Board on or after April 1, 2005, for eligible tax reporting periods in which taxpayers underreported or did not report their tax liabilities. The ten-year statute applies to eligible tax reporting periods for which a Notice of Determination could have been issued as of August 16, 2004 (the day the amnesty legislation was enacted) and keeps these periods open ten years from the due date of the tax. The expanded statute of limitation does not reopen eligible tax-reporting periods that were already closed on August 16, 2004. As applicable, a Notice of Determination issued by the Board on or after April 1, 2005, may be issued within ten years from the due date of the tax. Table 2 illustrates the effect of the expanded statute of limitation on the earliest periods that would normally be open for amnesty. See Exhibit A for a graphical representation of the amnesty periods subject to the ten-year statute of limitation.

TABLE 2

Effect of the Expanded Statute of Limitation				
Taxpayer's status and reporting basis with the Board	Statute period	Earliest period open as of 8/16/04	Original statute	Ten-year expanded statute
Registered – Monthly	3 years	July 2001 – due 8/31/01	8/31/04	8/31/11
Registered – Qtrly	3 years	3Q01 - due 10/31/01	10/31/04	10/31/11
Unregistered - Qtrly	8 years	3Q96 - due 10/31/96	10/31/04	10/31/06
Registered – Yearly	3 years	Calendar 2001 - due 1/31/02	1/31/05	1/31/12
Unregistered - Yearly	8 years	Calendar 1996 - due 1/31/97	1/31/05	1/31/07
Fiscal Yearly	3 years	Fiscal year ending 6/30/02 - due 7/31/02	7/31/05	7/31/12
Fiscal Yearly	8 years	Fiscal year ending 6/30/97 - due 7/31/97	7/31/05	7/31/07

Note: Amnesty may apply to earlier periods than shown in Tables 1 and 2 of this memo. As noted in section II.B., underreporters may apply for amnesty on periods prior to the third quarter of 2001 if the periods are still open on waivers of limitation. These open periods may also be subject to the ten-year statute of limitation. For example, a taxpayer has the fourth quarter of 1998 open on a waiver as of August 16, 2004. The reporting date of this quarter was January 31, 1999 for which the statute of limitation normally would expire January 31, 2002. Under the ten-year statute of limitation, which goes into effect beginning April 1, 2005, the Board has until January 31, 2009 to issue a determination on the fourth quarter of 1998.

Since the periods covered by amnesty are those beginning prior to January 1, 2003, the 4th quarter of 2002 (for quarterly filers) and calendar year 2002 (for annual filers) are the last periods covered by amnesty and are subject to the ten-year statute of limitation. Table 3 illustrates the effect of the ten-year statute of limitation on these periods.

TABLE 3

Effect of the Ten-Year Statute of Limitation for Filers				
Taxpayer's status and reporting basis with the Board	Statute Period	Last Period Eligible for Amnesty	Original Statute	Ten-year Expanded Statute
Registered – Monthly	3 years	December 2002 – due 1/31/03	1/31/06	1/31/13
Unregistered – Monthly	8 years	December 2002 – due 1/31/03	1/31/11	1/31/13
Registered – Qtrly	3 years	4Q02 - due 1/31/03	1/31/06	1/31/13
Unregistered – Qtrly	8 years	4Q02 - due 1/31/03	1/31/11	1/31/13
Registered – Yearly	3 years	Calendar 2002 - due 1/31/03	1/31/06	1/31/13
Unregistered – Yearly	8 years	Calendar 2002 - due 1/31/03	1/31/11	1/31/13
Registered – Fiscal Yearly	3 years	Fiscal year ending 6/30/03 – due 7/31/03	7/31/06	7/31/13
Unregistered – Fiscal Yearly	8 years	Fiscal year ending 6/30/03 – due 7/31/03	7/31/11	7/31/13

D. AMNESTY QUALIFICATIONS

To comply with the amnesty provisions, taxpayers must complete the following steps:

1. The taxpayer must file a completed amnesty application (BOE-898, BOE-898-A or BOE-899) with the Board during the amnesty period and sign it under penalty of perjury.
2. By May 31, 2005, the taxpayer who has been approved to participate in amnesty must:
 - (a) File amnesty returns for all eligible tax reporting periods for which returns have not previously been filed, and/or
 - (b) File amended amnesty returns (which only include amounts not previously reported) for all eligible tax reporting periods for which tax has been underreported, and
 - (c) For all eligible tax reporting periods for which the taxpayer is requesting amnesty, remit payment in full for all taxes and interest due or enter into an IPA to pay the tax and interest in full no later than June 30, 2006.

Nonreporters, underreporters and nonpayers can comply with the amnesty provisions by completing the following steps:

Nonreporter – In general, any taxable sales or purchases occurring between July 1, 1996 and December 31, 2002, should be reported under the tax amnesty program on returns marked “Tax Amnesty.” To qualify for relief of unpaid penalties under amnesty, the taxpayer must file an amnesty application, file sales and use tax returns for each eligible tax reporting period, reporting all sales and purchases, and pay the tax and interest due.

Underreporter – In general, for quarterly filers, any underreported sales or purchases occurring between July 1, 2001 and December 31, 2002 should be reported under the tax amnesty program on returns marked “Tax Amnesty.” Only the underreported sales or purchases should be shown on the amended return. For example, a taxpayer purchased equipment outside the state on August 15, 2002, for \$150,000 and paid no tax. In addition, the taxpayer did not report combined sales of \$350,000 for the period October 1, 2001 through December 31, 2002. To comply with amnesty, the taxpayer must file an amnesty application, file an amended return for each eligible tax reporting period in which it underreported tax, and pay the tax and interest due.

Nonpayer – Amnesty could apply to any unpaid or underpaid tax, interest and penalties for eligible tax reporting periods. For example, a taxpayer underpaid tax, interest and penalties on the returns that were filed for the fourth quarter of 2000, the second quarter of 2001 and the second quarter of 2002. The taxpayer still owes the underpaid amounts to the Board. This includes nonpayers who: 1) owe money to the Board, including those who are subject to collection activity, such as the imposition of liens, levies or earnings withholding orders, or those who have submitted an offer in compromise (OIC) or requested relief as an Innocent Spouse (where the OIC or the Innocent Spouse request is still in process); or 2) have received a Notice of Determination, demand for payment or other billing from the Board. This includes Notices of Determination that have been petitioned, which may be at the appeals level, in settlement or awaiting a Board hearing. To comply with amnesty, the taxpayer must file an amnesty application and pay all tax and interest amounts due.

Note: Taxpayers who have tax liabilities that are eligible for amnesty but do not participate in the tax amnesty program will have additional penalties imposed. See the discussion of penalties in section II.F.

E. BENEFITS

The tax amnesty program benefits qualified participants who timely complete the amnesty requirements for eligible tax reporting periods as follows:

1. All penalties imposed on their unreported, underreported, or unpaid tax liability will be waived.

2. No criminal action shall be brought against a taxpayer for eligible tax reporting periods in which the qualified taxpayer has requested amnesty and has completed the requirements for amnesty in a timely manner.

3. Avoidance of amnesty penalties described in section II.F..

F. PENALTIES

Beginning April 1, 2005, the two following penalties may be applied to tax liabilities for reporting periods eligible for amnesty.

1. 50 Percent Interest Penalty

(a) Application

The penalty is imposed pursuant to RTC section 7074 and applies to taxpayers who:

- Qualify for amnesty but do not participate.
- Participate in amnesty but still underreport their tax liabilities.
- Apply for amnesty but who do not enter into an IPA or pay their tax liability by May 31, 2005.

The penalty does not apply to:

- Tax liabilities for eligible tax reporting periods that were included in an IPA in place on January 31, 2005.
- Tax liabilities included in an amnesty IPA, regardless if the taxpayer subsequently defaults on its agreement.
- Tax liabilities for reporting periods not eligible for amnesty, for example, reporting periods for which a criminal court proceeding had been initiated against the taxpayer prior to amnesty (see section II.A.).
- Eligible tax reporting periods where the tax portion of the liability was paid in full on or prior to March 31, 2005 (non-participant) or May 31, 2005 (participant).

The penalty applies to both self-assessed and Board-assessed liabilities and is imposed beginning April 1, 2005 (non-participants) or June 1, 2005 (participants who did not fulfill all program requirements). With regard to Board-assessed liabilities, the penalty is imposed at the time the liability becomes final. Payment of the deficiency prior to the finality date does not prevent the penalty from applying.

(b) Computation

The penalty is equal to 50 percent of the interest on the unpaid tax amount remaining due as of March 31, 2005 (non-participants) or May 31, 2005 (participants who did not fulfill all program requirements), computed from the day following the original due date of the tax through March 31, 2005.

(c) Relief

Taxpayers who disagree with this penalty may request relief under RTC section 6592. The Board may relieve this penalty if it determines a taxpayer failed to make a timely return or payment due to reasonable cause and circumstances beyond their control. However, if the payment or return filing was late because of failure to exercise ordinary care or because of willful neglect, no relief from the penalty will be granted.

2. Double Penalties

In addition to the 50 percent interest penalty, pursuant to RTC section 7073 underreporters and nonreporters are subject to a penalty that doubles the rate of penalties (except the 50 percent interest penalty) applicable to a Notice of Determination issued on or after April 1, 2005. Additionally, if the finality penalty is imposed, it will be applied at double the normal rate.

(a) Relief

Taxpayers who disagree with this penalty may request relief under RTC section 6592. The Board may relieve this penalty if it determines a taxpayer failed to make a timely return or payment due to reasonable cause and circumstances beyond its control. However, if the payment or return filing was late because of failure to exercise ordinary care or because of willful neglect, no relief from the penalty will be granted. The double penalty is adjusted off if relief of the underlying penalty (e.g., failure to file, negligence) is granted.

G. PRIMARY AND SECONDARY LIABILITIES

This section provides information with regard to the waiver of existing penalties provided under amnesty and the application of amnesty penalties as they pertain to primary and secondary liabilities.

1. Waiver of Existing Penalties

If the taxpayer with the primary liability participates in amnesty, fulfills all amnesty requirements and is relieved of existing penalties, the taxpayer with the related secondary liability is relieved of the penalties as well. On the contrary, if

the taxpayer with the secondary liability participates in amnesty, fulfills all amnesty requirements and is relieved of existing penalties, the taxpayer with the related primary liability will not be relieved of the penalties unless the taxpayer with the secondary liability applies for amnesty on behalf of the taxpayer with the primary liability by identifying the primary taxpayer's account number on its amnesty application.

2. Application of Amnesty Penalties

For information regarding the application of amnesty penalties on secondary liabilities, see sections V.E.3. and V.E.4.

III. OTHER IMPACTED PROGRAMS

A. CASES IN SETTLEMENT

The Settlement Division will review amnesty applications and requests for amnesty IPAs in instances where a taxpayer's liability is being considered for settlement. Settlement officers will coordinate a taxpayer's participation in the amnesty program with their participation in the settlement program. In some cases, it may be necessary for the taxpayer to enter into a new amnesty IPA that will supercede or amend the taxpayer's original amnesty IPA.

The Settlement Division will also evaluate the risks of possible amnesty penalties in cases that are petitioned and still in the appeals process (i.e., cases involving non-final liabilities). The settlements for such cases will resolve the amnesty penalty issues, as well as the other issues relating to the taxpayer's liability.

B. MANAGED AUDIT PROGRAM

RTC section 7076.4 provides that for taxpayers participating in managed audits, interest on tax liabilities for the audit period covered by the managed audit program is computed at one-half the rate *that would otherwise be imposed*. The interest for eligible tax reporting periods under the Managed Audit Program is also calculated at one-half the rate that would otherwise be imposed.

If the taxpayer has an unpaid tax liability as of March 31, 2005 for an eligible tax reporting period that is included in a managed audit and the taxpayer does *not* participate in amnesty, the taxpayer would be subject to the 50 percent interest penalty provided under RTC section 7074(a). If the deficiency for such eligible tax reporting period becomes final on or before the close of the amnesty period (March 31, 2005), the penalty provided under RTC section 7074(a)(1) would apply to the taxpayer's unpaid tax liability as of March 31, 2005 and would be imposed on or shortly after April 1, 2005. If the deficiency for such eligible tax reporting period becomes final after the close of the amnesty period, the penalty provided under RTC section 7074(a)(2) would apply to the

taxpayer's unpaid tax liability as of March 31, 2005 and would be imposed on the date the liability becomes final.

In both instances, the penalty is calculated as 50 percent of the interest computed under RTC section 6591 on the unpaid tax as of March 31, 2005 from the original due date of the tax to March 31, 2005, at the modified adjusted rate per month, or fraction thereof, established pursuant to RTC section 6591.5. (The full rate of interest is used to compute the penalty, not the reduced 50 percent rate used to compute interest for managed audits.)

To illustrate, assume a taxpayer has a tax liability in an eligible tax reporting period of \$1,000 and the interest that would otherwise be imposed is equal to \$200 (illustrative purposes only, not an actual interest calculation). The taxpayer does not participate in amnesty, but does participate in a managed audit for the eligible tax reporting period. The \$1,000 tax liability is final and remains unpaid. The effect of a 7074(a) penalty is shown in Table 4.

TABLE 4

Effect of a 7074(a) penalty under the Managed Audit Program		
Unpaid tax liability	Managed audit program interest (1/2 of interest otherwise imposed under RTC section 6591 to 3/31/05)	RTC section 7074(a) 50 percent interest penalty computed under RTC section 6591 to 3/31/05
\$1,000	\$100.00	\$100.00 (50% x \$200 interest otherwise imposed)

Of course, if the taxpayer participates in the tax amnesty program and either pays in full the tax portion of their liability prior to May 31, 2005 or enters into an amnesty IPA by this date, no RTC section 7074(a) penalty will apply.

Also, a Notice of Determination issued on or after April 1, 2005 to a taxpayer participating in a managed audit is subject to the expanded ten-year statute of limitation if the statute of limitation was open as of August 16, 2004 (the date on which the amnesty legislation was enacted).

C. VOLUNTARY DISCLOSURE PROGRAM

Unregistered taxpayers are normally subject to an eight-year statute of limitation (see section II.C.). In general, qualified taxpayers that participate in the Voluntary Disclosure Program (VDP) under RTC section 6487.05 or 6487.06 are subject to the three-year statute of limitation in general. The provisions of the tax amnesty program do not exclude qualifying retailers or qualifying purchasers as defined in RTC section 6487.05 or 6487.06, respectively, nor do they prohibit relief of penalties when meeting the requirements of RTC section 6487.05 or 6487.06.

Referencing Tables 5 and 6, and absent a waiver of limitation for earlier periods, for those taxpayers with a three-year statute of limitation, the eligible tax reporting periods subject to the ten-year statute of limitation are:

- Quarterly reporting basis: 3Q01 (due October 31, 2001) through 4Q02 (due January 31, 2003).
- Calendar year reporting basis: Calendar year 2001 (due January 31, 2002) through Calendar year 2002 (due January 31, 2003).

For qualifying retailers participating in the VDP, if any period within the three-year statute of limitation includes eligible tax reporting periods, the Board can issue a Notice of Determination on or after April 1, 2005 for tax liabilities in those eligible tax reporting periods based on the ten-year statute of limitation, unless the taxpayer also participates in the tax amnesty program for these tax liabilities.

Example 1: (Pre-Amnesty) Qualifying quarterly reporting retailer participates in the VDP but does not participate in the tax amnesty program, even though they are eligible to participate. The taxpayer approaches the Board in January 2004. The taxpayer signs no waivers of limitation.

TABLE 5

Taxpayer is eligible to participate in Tax Amnesty;			
Does not participate in Tax Amnesty – Pre-Amnesty			
Date entered VDP	Earliest period for unregistered	Earliest period under the VDP limited 3-year statute	Eligible tax reporting periods with limited 3-year statute under VDP; subject to 10-year statute
January 2004	4Q95 – due 1/31/96	4Q00 – due 1/31/01	3Q01 through 4Q02

Example 2: (Post-Amnesty) Qualifying quarterly reporting retailer participates in the VDP, but does not participate in the tax amnesty program. The taxpayer approaches the Board in August 2005.

TABLE 6

Taxpayer was eligible to participate in Tax Amnesty;			
Did not participate in Tax Amnesty– Post-Amnesty			
Date entered VDP	Earliest period for unregistered – 8-year statute	Earliest period under the VDP limited 3-year statute	Eligible tax reporting periods with limited 3-year statute under VDP; subject to 10-year statute
August 2005	3Q96 – due 10/31/96	3Q02 – due 10/31/02	3Q02 and 4Q02

If the three-year statute of limitation period includes eligible tax reporting periods, amnesty penalties will apply, but the penalties *shall* be relieved for qualifying retailers (RTC section 6487.05(b)) and *may* be relieved for qualifying purchasers (RTC section 6487.06(c)) if the delay was excusable.

Taxpayers may apply and participate in both the amnesty program and a VDP. In such instances, relief of penalties for amnesty-eligible reporting periods will be provided under amnesty while relief of penalties for periods not eligible for amnesty will be provided under the VDP.

When a taxpayer who did not participate in the amnesty program participates in a VDP and reports taxes for amnesty-eligible reporting periods, the amnesty-related penalties described in section II.F. will apply. However, upon the taxpayer's acceptance into the VDP and acceptance of the taxpayer's request for relief from penalties signed under penalty of perjury, all penalties will be relieved including the amnesty-related penalties. Relief from the penalties is granted under the provisions of the appropriate VDP (RTC sections 6487.05 or 6487.06).

IV. FIELD OFFICE PROCEDURES

A. AUDIT

1. General Information

Taxpayers whose audits have been completed but not yet transmitted for billing and audits in process must immediately be advised of the tax amnesty program. These taxpayers must apply for amnesty to receive the benefits of the tax amnesty program. Each taxpayer that the audit staff works with will receive the general notification of the tax amnesty program that is being mailed to all permit holders. When contacting taxpayers, the audit staff must educate taxpayers regarding amnesty and ensure they can assess their specific situation and make informed decisions on whether to participate in the tax amnesty program.

The audit staff will provide specific amnesty information to each of the taxpayers they contact, beginning in early January 2005 and continuing through March 31, 2005. Such information will include the amnesty brochure, frequently asked questions available on the webpage, instructions on how to apply, what they must provide, and how to access amnesty forms and information on the amnesty program webpage. Any taxpayer that asks for information should be advised of the provisions of amnesty and also should be directed to the amnesty program webpage (<http://www.boe.ca.gov/sutax/taxamnesty.htm>). Taxpayers should be informed that their petition rights are unaffected by the tax amnesty program. Adjustments to audits resulting from petitions will be identified and entered at the Petitions Section level unless the adjustment requires follow up by district staff.

To assist audit staff with this education effort, a special “amnesty audit letter” has been distributed to each district office and must be mailed or provided to any taxpayer that is under audit on or before March 31, 2005. This includes audits of taxpayers that were transmitted on or after January 1, 2005. In addition, an “auditor checklist” has been developed for use by auditors for all audits in process. See section IV.A.4. for use of this checklist.

Audit staff should not calculate the amount of tax amnesty liability to be filed on behalf of taxpayers but can advise them on resources they may want to consider. Filing for tax amnesty and reporting any underreported tax liability is the responsibility of the taxpayer. Taxpayers can be advised to utilize any resource to establish or estimate any liability they may have underreported. These resources include their own examination of their records, prior audit results, current audit projections or any other method they choose.

2. Existing Billed Audit Liabilities

Taxpayers with existing unpaid audit liabilities, final or nonfinal, that include amnesty-eligible tax reporting periods may apply for amnesty. Section II.D. explains the application process for accounts with existing liabilities.

3. Audits in Process

Taxpayers with audits in process that include eligible tax reporting periods may apply for amnesty. To do so, these taxpayers must complete and file an amnesty application (form BOE-899), within the amnesty filing period. Returns must be filed for all eligible tax reporting periods for which returns have not previously been filed or for which tax has been underreported. Tax returns for tax reporting periods eligible for amnesty are available on the amnesty webpage. These returns range from the third quarter of 1996 through the fourth quarter of 2002 and are watermarked “Tax Amnesty.”

Taxpayers may submit audit schedules (as identified in Audit Manual section 0205.23) in lieu of the watermarked amnesty returns available on the amnesty

program webpage. The taxpayer must be instructed to clearly identify on the schedule, those periods and amounts for which they are requesting amnesty.

Audits in process should continue to be completed in the normal priority. That is, audits with expiring periods not covered by waivers of the statute of limitation, and the oldest audits in process should continue to be a high priority for completion. The tax amnesty program does not alter the priority for completion of audits. Some taxpayers desiring to use the results of the audit in process to file an amount for tax amnesty may want the completion of their audit expedited due to the limited period to timely file for amnesty. Audit staff should be sensitive to this need but are reminded to follow established priority for completion of audit assignments. Taxpayers can use any method they believe accurately reflects the amount to file for tax amnesty. To meet the filing timelines if a taxpayer over estimates what they report and pay to avoid the amnesty penalties, they should file a protective claim for refund.

Applications and returns must be sent to the Centralized Collection Section (CCS) Tax Amnesty Group (MIC 95). Taxpayers should be advised to enter the notation "Audit in Process" on the top of their application and returns. For accounts with audits in process, CCS will provide a photocopy of the application, the amnesty approval letter (when applicable), and returns filed to the field audit staff conducting the audit.

4. Auditor Checklist for Audits in Process

For the purposes of the auditor checklist, audits in process are those audits that have not been transmitted to the Audit Determination and Refund Section (ADRS). Effective immediately and through March 31, 2005, auditors are to address the items on the attached checklist (Exhibit B) with the taxpayers for all audits not currently in review status; audits that are returned to the auditor for corrections by the district reviewer; and, audits started prior to April 1, 2005. This checklist will document the actions taken during the amnesty period.

District auditors are responsible for communicating with taxpayers about the tax amnesty program as it relates to the audit being performed and document this communication using the attached checklist. If the auditor is not familiar with any of the issues that need to be addressed, the auditor should check with their immediate supervisor or the district amnesty expert for clarification. The completed checklist must be included in the audit working papers behind the BOE-414-Z (Assignment Contact History). All items must be checked and explanations provided for any "no" response.

District reviewers are responsible to confirm the checklist is attached to the audit working papers and all the items on the checklist are marked "yes" or "no." If marked "no," there should be a brief explanation as to why the taxpayer was not advised of the item(s) listed. If the checklist is not attached to the audit working papers, one of the items is not checked, or there is no explanation provided for a

listed item(s) marked “no,” the audit should be returned to the auditor for corrections. The taxpayer should be provided a copy of the checklist.

5. Waiver of Statute of Limitation (form BOE-122)

Staff should continue to request taxpayers sign waivers of limitation, since it gives taxpayers notice that more audit work is required and provides their concurrence that the audit will be delayed. However, under the expanded ten-year statute of limitation, periods that were open under a valid waiver on August 16, 2004 (the date the amnesty legislation was enacted) are subject to the ten-year statute of limitation. For example, if on August 16, 2004, a valid waiver was in place with an expiring date of January 31, 2005, that covered the period of 1Q99 (due April 30, 1999), this period would have been open to the issuance of a Notice of Determination on the date the amnesty legislation was enacted. Therefore, on or after April 1, 2005, staff would have until April 30, 2009 to issue a Notice of Determination for this period. Waivers normally needed for January 31, 2005 should be obtained from the taxpayer since the ten-year statute is not effective until April 1, 2005. Taxpayers should be reminded one of the benefits of signing a waiver or an extension to a previous waiver is it also keeps the statute open for filing a claim for refund. The expanded ten-year statute of limitation to issue a Notice of Determination does not extend the time for taxpayers to file a claim for refund. Signing a waiver or an extension will allow for filing a claim for refund for periods that would otherwise expire.

6. Credit Amounts in Periods of the Audit Covered by Amnesty

Credits are only available to be applied to other liabilities once they have been verified and approved by the Board. Until a Notice of Refund or a Notice of Determination is issued, any credits disclosed by audit are not available to be applied to other tax liabilities (whether they are eligible periods or not) within the audit period covered by the notice. If credits are found in some periods of the audit, they cannot be applied to other periods with a net tax liability until the notice is issued. For audits with periods prior to January 1, 2003 that have credit amounts and a notice has not been issued prior to March 31, 2005 (close of the amnesty filing period), the taxpayer should be advised to file for amnesty and pay the tax liability for any eligible tax reporting period where the audit indicates a tax liability to avoid the additional amnesty penalties. Taxpayers should also be advised to file a claim for refund for the credit amounts of the audit and for any payments made on the debit amounts that were filed under amnesty.

Credits within audits that include eligible tax reporting periods will generally be handled in the same manner as they are currently handled. Credits within one period can be used to offset the tax liability of other periods within the same audit. Taxpayers should be informed that unless the audit results in a refund, the credits can only be applied to offset tax and not interest. If an audit results in a refund, that refund amount can be applied towards outstanding tax and interest under an

amnesty filing. The current running balance method of computing interest will continue to be used for eligible tax reporting periods.

7. Amended Tax Amnesty Returns on Audit Reports

Completed audit reports will provide a credit for the tax reported on the amended tax amnesty returns filed by the taxpayer for the eligible tax reporting periods. The credit is similar to a RTC section 6406 credit and is intended to prevent double billing on the audit report and amnesty returns (similar to RTC section 6406 credit). The audit upload was revised to incorporate changes needed to accomplish this credit and apply the double penalties.

8. Amended Tax Amnesty Returns – Post Amnesty

For audits commencing after May 31, 2005, the amounts filed on amnesty returns should not be included as a credit in the field audit report. The amnesty returns are to be treated as amounts reported by the taxpayer and are not additional audit recovery. Auditors will need to reconcile audited amounts to both the taxpayer's original returns and amended amnesty returns.

Original and amended amnesty returns are found on separate pages of the audit transcript which can be accessed on the AUD TR screen in IRIS. The returns print separately, and the totals are not provided in the transcripts. Staff must ensure current transcripts are printed prior to submitting the field audit report to reflect the most recently filed or amended amnesty returns.

9. Audits With Expanded 10-Year Statute of Limitation

Audit periods will not routinely be expanded beyond the three years when returns have been filed. Expanding the normal three-year audit period will generally be on a case-by-case basis. Only eligible amnesty periods open to issue a Notice of Determination as of August 16, 2004 are subject to the expanded 10-year statute of limitation. Reporting periods beginning on or after January 1, 2003 are subject to the normal three-year statute of limitation when returns have been filed.

However, there are circumstances where the ten-year statute of limitation would cause the Board to audit a period outside of its normal three-year audit selection cycle. Some factors have been identified that would impact a decision on whether we would audit these periods. These factors include:

- (a) Whether the taxpayer participated in amnesty;
- (b) Whether the amnesty-eligible tax reporting periods were already audited;
- (c) Whether a post amnesty three-year audit period is contiguous with or overlaps the amnesty-eligible tax reporting periods;
- (d) Whether the results of the Board's initial cursory review and spot-checking of the taxpayer's records at the beginning of the audit

- indicate a reporting error in the amnesty-eligible tax reporting periods; and
- (e) Whether the Board has any specific/direct information regarding the existence of an underreported liability within the amnesty-eligible tax reporting periods.

In addition, there are other factors to consider when pursuing amnesty eligible periods that are otherwise barred by the three-year statute of limitations. The following factors are not individually intended to be determinative factors in deciding whether or not to pursue these periods, but should be considered on a case by case basis.

- Was the audit started during the amnesty filing period? If so, confirm the taxpayer was informed of their opportunity to file for amnesty. (copy of letter, auditor notes, etc.)
- Was there sales tax reimbursement applied and collected on the transactions at issue in the amnesty periods?
- Does the business have a history of reporting discrepancies (prior audit, delinquencies)?
- Is the understatement of tax material?
- Did the taxpayer's actions warrant a negligence, fraud or other discretionary penalties?
- Was the liability established on an actual or projection basis?
- Are records available for the amnesty periods?
- Did the taxpayer or their representative refuse to sign a waiver for amnesty eligible periods because they felt the amnesty statute kept the period open and a waiver was unnecessary?
- Have there been any significant changes in:
 - Nature or operation of business
 - Accounting procedures
 - Personnel
 - Laws, Rules, or Regulations pertaining to this taxpayer.

With the exception of waiver error situations, the District Administrator or, upon delegation, the District Principal Auditor, will approve any extension of the statute of limitations for amnesty eligible periods. Upon making the decision to approve the extension, an informational email must be sent to the Chief of Field Operations or Chief of Collections and Third District Operations. The email must include the following information:

- Name of Taxpayer
- Account Number
- Start Date of Permit
- Start Date of Audit
- General Description of Audit Discrepancy
- Explanation of Reason for Approval
- Periods Extended

10. Post Amnesty Audits – Amnesty Participants

If a taxpayer reported amounts under amnesty that, based upon audit history or other factors, would indicate an audit of these periods would be unproductive, you should waive the audit for these periods and consider postponing the audit until there is a full three-year unaudited/unwaived period.

11. Audit Reports – Amnesty Information

If an audit includes reporting periods eligible for amnesty, audit staff must make a comment on the audit report indicating whether or not the taxpayer participated in the amnesty program. If the taxpayer participated in the program, additional details regarding its participation should be provided, including:

- (a) Whether or not the taxpayer filed amnesty tax returns, and if so for which reporting periods.
- (b) Whether or not amounts reported on the amnesty returns were the same, less than, or greater than the amounts included in the audit.
- (c) Whether or not periods included in the audit go beyond the normal three-year audit cycle.
- (d) Whether or not periods were covered by a waiver which has expired.

For Notices of Determination issued on or after April 1, 2005, the amnesty penalties will apply to underreporting of tax amounts. If a taxpayer participated in amnesty, but reported less than the liability later determined, the amnesty penalties will apply to the amount of tax not reported. Audit staff must apply the double amnesty penalties on the front of the audit report. In addition, the amount of the 50 percent interest penalty should be identified in a comment made on the front or back of the audit report. (The AUD CA screen is used to calculate the amount of the 50 percent interest penalty.) Audit staff must disclose to the taxpayer information regarding the amnesty penalties applied to the audit liability.

B. COMPLIANCE

1. Collection Cases

(a) Amnesty Applications

Amnesty applications will be mailed to taxpayers with existing liabilities in eligible tax reporting periods by mid-January 2005. Once these applications are mailed, staff should actively solicit taxpayers' participation in the tax amnesty program.

Although taxpayers should mail amnesty applications to CCS, there will be instances where applications are received in the

district offices. The application should be date-stamped, a copy should be retained and the original immediately forwarded to CCS (MIC 95) for processing. Additionally, a comment must be added in ACMS that the application was received and forwarded for processing.

(b) Installment Payment Agreements (Pre-Amnesty)

Taxpayers with an IPA in place as of January 31, 2005 are not subject to the 50 percent interest penalty. To accurately identify which accounts are excluded from this amnesty penalty, staff must input all promises to pay into ACMS no later than January 28, 2005. Liabilities on such accounts will be identified with the "PTP" difference status in IRIS.

An Earnings Withholding Order (EWO) is not considered an IPA. Staff must attempt to contact each taxpayer for which an EWO is in place and explain to them that the EWO is not the same as an IPA. Staff should encourage the taxpayer to enter into an IPA prior to February 1, 2005 to avoid imposition of the 50 percent interest penalty.

(c) Amnesty Participants

CCS will only handle amnesty-eligible liabilities. The district of control will remain responsible for resolving non-amnesty related issues on an account (e.g., liabilities for tax reporting periods beginning after January 1, 2003, delinquencies, revocations). Whenever an account has both amnesty and non-amnesty liabilities, including audits, CCS will work the amnesty portion of the liability, and the district of control will work the non-amnesty portion. When this situation arises, CCS and the district of control will coordinate efforts to ensure a uniform collection approach is maintained.

Once a taxpayer applies for amnesty, the district office collector is no longer responsible for collecting the amnesty-eligible portion of the taxpayer's liability as long as the taxpayer remains in the tax amnesty program. (This can be determined by reviewing ACMS information as well as by reviewing the DIF AM screen in IRIS for an amnesty "End Date.") The district office will continue any actions necessary to resolve non-amnesty liabilities, delinquencies, revocations, etc. When negotiating a payment agreement for non-amnesty liabilities, the payment amount the taxpayer is making towards amnesty-eligible liabilities must be considered an allowable expense when calculating the amount it can pay towards the non-amnesty liabilities. This will help avoid instances where

taxpayers are not able to pay their amnesty liabilities because of the payment amount required by their non-amnesty IPA.

Accounts participating in amnesty will generally remain on the field offices' worklists in ACMS. However, accounts which only have amnesty-eligible liabilities will be routed by CCS to the IH functional area in ACMS. Regardless of whether an account remains on a field office's worklist or is routed to a CCS worklist, CCS staff will utilize ACMS to generate amnesty related correspondence and to document any important information regarding a taxpayer's participation in the amnesty program.

When an IPA has been entered into for non-amnesty liabilities, field staff will continue to follow established procedures and input the promise in ACMS. If a taxpayer defaults on the non-amnesty IPA and collection action is initiated by the field office (once the termination procedures have been followed), field staff must not include amnesty-eligible liabilities in their collection efforts (e.g., levies, liens). Staff will need to be careful since, for example, when creating a levy, ACMS will pre-fill all amounts remaining due on the account. Staff can modify these amounts in ACMS prior to sending the levy.

CCS will monitor amnesty IPAs. If a taxpayer defaults on the agreement, a 15-day termination letter will be mailed to the taxpayer as with any other IPA that is terminated. Afterwards, the taxpayer will be removed from the tax amnesty program. At this point, the district office once again becomes responsible for collecting all amounts on the taxpayer's account.

Generally, for amnesty liabilities only, no enforced collection actions should be initiated once a taxpayer has applied for amnesty. EWOs, levies and keepers initiated prior to the receipt of the amnesty application should be evaluated on a case-by-case basis to determine if they should remain in effect.

With regard to closed-out partnership accounts, the non-participating partner(s) may still be pursued for payment of the liability owing on the account. To determine which partners have applied for amnesty, staff should review the notes and letters in ACMS that were generated by CCS. If this does not provide the necessary information, staff should contact CCS staff for assistance.

In most instances the non-participating partner(s) should be pursued for the entire amount (tax, interest and penalty) remaining due for the post-amnesty reporting periods as well as the tax and

interest remaining due for the amnesty-eligible periods. Payments received from the non-participating partner(s) should be applied using established payment application rules. This means such payments could be applied to post-amnesty liabilities and not necessarily applied to amnesty-eligible liabilities unless the tax on the post-amnesty periods was previously paid in full. Of course, such payments can be applied to amnesty-eligible liabilities on the account if the non-participating partner directs us to do so at the time of payment.

Assuming the participating partner fulfills all amnesty requirements, the non-participating partner(s) will receive the benefits of amnesty in that they will be relieved of the penalty amounts for the amnesty-eligible periods.

(d) 50 Percent Interest Penalty Applied Incorrectly

If the amnesty penalty on a taxpayer's account was assessed in error or if the amount assessed was incorrect, staff should prepare a request to have the penalty cancelled or adjusted. Such requests must include the taxpayers' name, account number, and identify the reason for the request. A memo has been developed for this purpose (see Exhibit C). These procedures pertain only to instances where the amnesty penalty was applied in error or where the penalty amount applied was incorrect and do not apply to RTC section 6592 requests for relief from penalty.

If the reason for a request is related to a taxpayer's participation in amnesty (i.e., applied for amnesty timely or entered into an amnesty installment payment agreement timely), such requests should be forwarded to CCS and do not require supervisory approval. All other requests require supervisory approval prior to being submitted. As identified in Table 7, approved requests should be forwarded to the appropriate section for resolution based upon the type of liability (e.g., tax return, consumer use tax liability, Dual Determination, successor liability, petitioned liability) to which an adjustment is required.

Table 7

Liability Type	Section
Tax Returns and Compliance Assessments (Final)	Return Analysis Section (MIC 35)
Audit Liabilities (Final) Board Assessed (Appealed)	Petitions Section (MIC 38)
Consumer Use Tax Liabilities (TAT: SA, SB, SP or SI)	Consumer Use Tax Section (MIC 37)
Dual Determinations Successor Determinations Liabilities Under Bankruptcy	Special Procedures Section (MIC 55)

If the request for an account includes multiple types of liabilities, only one request need be prepared and submitted. Such requests should be sent to the section that will be responsible for performing the largest dollar amount penalty cancellation/adjustment. This section will be responsible for performing all penalty cancellation/adjustments on the account and mailing a notice to the taxpayer showing the adjustment has been performed. The statement should include a standard bill note explaining the adjustment.

(e) Taxpayers with Reporting Periods Excluded from Amnesty

Pursuant to RTC section 7072, taxpayers who, as of the first date of the amnesty period, were on written notice of a criminal investigation or for which a court proceeding had already been initiated, are excluded from participating in the amnesty program (for those reporting periods). This exclusion only applies to the reporting periods to which the criminal investigation or court proceeding pertained. Liabilities for reporting periods not related to the investigation or court proceeding remain eligible for the amnesty program.

For misdemeanor cases handled by district offices, each district will compile a list (i.e., Excel spreadsheet) of their pending or completed prosecutions (for reporting periods beginning prior to January 1, 2003). The list must include the account number, taxpayer name, and reporting periods for which the taxpayer was prosecuted (or on notice of prosecution) as of February 1, 2005. The list must be provided to CCS by no later than February 18, 2005.

For each account identified on the list, field staff should add a comment in ACMS identifying the periods that are excluded from amnesty due to a completed or pending prosecution.

For each reporting period not eligible for amnesty, the Investigations Division (ID) will apply the "AEX" difference status code using the DIF ED screen in IRIS. In addition to identifying those liabilities excluded from amnesty, the "AEX" difference status code will prevent the application of the 50 percent interest penalty.

2. Cashiering

Amnesty payments received in district offices should be processed in the same manner as other payments with the exception that a comment must be added to the PAY BO screen in IRIS to identify it as an amnesty payment. The following are the steps to enter a comment:

- (a) Go to the PAY BO screen. Type "p" in the "Act" (Action) field for that remittance and press Enter. The PAY BT screen will appear.
- (b) Type a "v" in the "Act" field and press enter. The PAY PD screen will appear.
- (c) On the PAY PD screen, press F11 to enter a comment.
- (d) Place the cursor on the "Category" field and press F1 to view the categories.
- (e) Select PAY TRANS and press Enter. In the "Subject" field, enter "Amnesty Payment."

If the remittance is split into two or more payments, a comment must be added to each payment. The comment must indicate if the payment is being applied at the direction of the taxpayer and if so, whether the direction was verbal or written. For example, if the taxpayer gave verbal direction regarding the application of the payment, the following comment can be added: "Amnesty remittance \$1000. Verbal by taxpayer, \$500 for 4Q02, \$500 for 3Q02." If the same comment applies, the cashier can copy and paste the comment. Copies will be made of any source document(s) provided by the taxpayer that specify how the payment is to be applied, and forwarded to CCS (MIC 95).

If the taxpayer reports tax not previously reported and submits a return with payment to a field office, the payment will receive the existing "WAI" (waiting to match) held reason until the return is processed at headquarters. After return processing is complete, the payment should be matched to the tax return. If a taxpayer submits an amnesty tax return with payment for a tax reporting period for which a periodic financial obligation (FO) does not exist (e.g., a reporting period prior to the start date or after the close-out date of the account), district staff must create a periodic FO prior to applying the payment. Creating a periodic FO may require staff to change the start date and/or close-out date of the account.

Taxpayers should use the amnesty tax returns that will be available from the Board's amnesty program webpage beginning in mid-January 2005. These returns have a "Tax Amnesty" watermark and are identified by a new batch code in the lower right corner. Tax returns submitted on forms other than the special amnesty returns, must be identified by handwriting "Tax Amnesty" across the top of the return and changing the batch code in the lower right-hand corner to either "TA1" (single page returns for each period starting 3Q96 - 4Q01) or "TAP" (two-page returns for each period starting 1Q02 - 4Q02).

Amended tax amnesty returns must also be identified by handwriting "Amended" near the top of the return. Amended returns must **only include transactions not previously reported**. District staff (e.g., counter staff, Business Tax Representatives) will create one-time (OTM) financial obligations so that the amended returns can be properly processed. Payments for amended tax amnesty returns will be processed on-line as usual (i.e., enter amount, account number and period on the CSH RO screen) with the exception that the "A/R" switch will be left blank.

All amnesty tax returns, regardless of whether or not a payment was received, will be sent to the Cashier Unit with the regular daily transmittal batch.

C. USE TAX – VEHICLES

There may be instances where a taxpayer comes forward to report and pay use tax due on a vehicle or an undocumented vessel that had not been registered with the Department of Motor Vehicles (DMV) or that had been registered with the DMV but the sales price had been underreported. DMV has been advised to direct taxpayers desiring to participate in amnesty to the Board for assistance.

Taxpayers must complete an amnesty application (BOE-899, *California Sales and Use Tax Amnesty Application*) and submit payment for the use tax and interest amount due. If the taxpayer is unable to pay the liability in full, they may request an IPA by indicating such on the BOE-899.

If the taxpayer remains in possession of the vehicle and/or undocumented vessel and it is not currently registered with the DMV, the taxpayer should complete a BOE-106, *Vehicle/Vessel Use Tax Clearance Request*. By doing so, the Board can provide the taxpayer with a BOE-111, *Certificate of Vehicle, Mobilehome or Commercial Coach Use Tax Exemption* and/or a BOE-111-B, *Certificate of Vessel Use Tax Clearance*, so the taxpayer may complete registration with the DMV. If the taxpayer requested an IPA, the Consumer Use Tax Section (CUTS) will issue a Notice of Determination for the tax and interest due, then process and issue the use tax clearance to complete registration with the DMV.

V. HEADQUARTERS PROCEDURES AND RESPONSIBILITIES

A. CENTRALIZED COLLECTION SECTION

1. Amnesty Application Review

Applicants will complete and submit either form BOE-898, *Sales and Use Tax Amnesty Application* (a notice initiated through IRIS and mailed to accounts identified with an existing liability that meets the eligibility requirements for amnesty) or form BOE-899, *California Sales and Use Tax Amnesty Application*. CCS will review the applications to ensure that all tax amnesty requirements are met and notify the applicants in writing whether their applications have been accepted or rejected using form BOE-900-B, *Amnesty Acceptance Letter* or BOE-900-C, *Amnesty Rejection Letter*. CCS will follow up on payments and returns from those participating in the tax amnesty program and establish amnesty installment payment arrangements when appropriate.

2. Review of Denied Amnesty Applications

Upon request by a taxpayer or their representative, CCS will review the denied taxpayer's request for reconsideration on a case-by-case basis to determine if an error occurred. CCS will notify the taxpayer of the outcome of the review.

3. Registration

When an applicant does not have a seller's permit or a consumer use tax account with the Board, staff will issue an account number using the information available on the tax amnesty application. An Issue and Cancel account will be issued for applicants that do not require a permit. For applicants actively engaged in business and issued an account number under amnesty, CCS will send a copy of the amnesty application to the appropriate district office to obtain the information needed to complete the registration process.

4. Amnesty Flag Indicator

Once an application is accepted, CCS staff will flag the account for amnesty in IRIS by entering the required information, including the date of the taxpayer's amnesty application, on the DIF AM screen. By doing so, the "AMP" (amnesty participant) difference status code will be applied to each amnesty-eligible difference on the taxpayer's account that was either first billed (i.e., Board-assessed) or was first filed (i.e., self-assessed) on or prior to June 1, 2005 on the account. Additionally, account characteristic code 24 will be assigned to the account.

5. Amnesty Installment Payment Agreements

May 31, 2005 is the deadline by which amnesty participants must either pay in full their outstanding tax and interest amounts or enter into an amnesty IPA. Pursuant to RTC section 7073(b), the terms of amnesty IPAs must include full payment of tax and interest by no later than June 30, 2006.

CCS staff is responsible for establishing amnesty IPAs. When an amnesty IPA has been established, CCS staff will mail the agreement, form BOE-900-A, *Amnesty Installment Payment Agreement*, to the taxpayer and input a "Y" in the "Payment Agreement" field on the DIF AM screen. This will cause all amnesty-eligible liabilities existing on the account to be identified with the "AIP" difference status code signifying an amnesty IPA has been accepted. Further, CCS staff is responsible for monitoring a taxpayer's agreement, and when necessary, mailing the default and subsequent termination letters to the taxpayer. The "AIP" difference status code will remain on all amnesty-eligible differences on a taxpayer's account, even after a taxpayer has defaulted on its payment agreement and its participation in the program has ended.

6. Penalty Adjustment

Once the taxpayer has paid the tax and interest in full for eligible tax reporting periods and has met all of the amnesty requirements, a Legal Adjustment in IRIS will be processed under RTC section 7072(a)(1). An Amnesty Penalty Adjustment Request memo signed and approved by a designated CCS approver will be forwarded to the Return Analysis Section (RAS), the Petitions Section, CUTS, or SPS for processing. The division of responsibilities for cancellation of penalties pursuant to amnesty is consistent with the cancellation or relief of penalties under other circumstances.

7. Participation in Amnesty Ended

A taxpayer's participation in the amnesty program ends when either they have paid their liability in full or when they have failed to fulfill the amnesty program requirements. A taxpayer's participation in amnesty ends, for example, if it fails to file amnesty returns by May 31, 2005 or its amnesty IPA is terminated. CCS staff is responsible for mailing the taxpayer form BOE-900-D, *Amnesty Requirements Not Met*, and inputting the date on which the taxpayer's participation in the amnesty program ended in the "End Date" field on the DIF AM screen in IRIS. CCS will also route the account in ACMS to the appropriate field office's worklist.

8. Application of Payments under Amnesty

A taxpayer may designate, at the time of payment, how the Board is to apply the payment to eligible tax reporting periods. Amnesty payments not designated by the taxpayer will be applied using the Board's existing payment application rules.

Such payments will be applied to tax for each period for which the taxpayer requested amnesty, beginning with the most recent billed. Once the tax amounts for all amnesty-eligible tax reporting periods have been paid, subsequent payments will be applied to interest for each period beginning with the most recently billed. The same application rules will apply to amnesty payments received and applied to audit liabilities following the issuance of the Notice of Determination. That is, non-designated amnesty payments will be considered to have been applied to the most recent tax reporting period within the audit for which the taxpayer is participating in amnesty. The taxpayer will receive the amnesty benefit of relief from penalty only for the amnesty eligible periods for which the tax and interest were paid in full.

B. CASHIER UNIT

The amnesty returns and checks will be delivered from CCS to the Cashier Unit. These returns will be identified and processed through cashiers in the regular manner. They will be batched by the following batch identifiers (type):

TA1 - single page returns for each period starting 3Q96 - 4Q01

TAP - two-page returns for each period starting 1Q02 - 4Q02

The batch identifiers will be pre-printed on the returns in the lower right-hand corner. These batches will be handled with a Priority 1.

C. DATA ENTRY UNIT

The Data Entry Unit will handle the amnesty batches as Priority 1. Once the amnesty returns and Schedule A's are keyed, they will be sent to Data Management Services to be matched to the transmittal. The returns will then be delivered to RAS to be worked for billings, etc. Once work is completed in RAS, these batches should be delivered to the Local Revenue Allocation Section (LRAS) for further processing of consolidated TATs or to CCS for final review and *not* to the Taxpayer Records Unit with other regular return batches. LRAS will forward these batches to CCS when completed.

D. RETURN ANALYSIS SECTION (RAS)

RAS will process amnesty returns filed by nonreporters and amended amnesty returns filed by underreporters for eligible tax reporting periods on a priority basis. RAS will also remove penalties when all the requirements of the tax amnesty program are met and upon written authorization from CCS. In addition, RAS will cancel a 50 percent interest penalty that was assessed in error and process requests for RTC section 6592 relief of any tax amnesty penalty.

1. Returns Filed By Nonreporters

Amnesty returns will be reviewed following normal RAS procedures. RAS will include the return on a statement of account if the total unpaid tax and interest is greater than \$10.00. RAS staff will include the appropriate bill notes on the statement, including those bill notes specifically created for the amnesty program. If only penalty (or total tax and interest of \$10.00 or less) remains unpaid, RAS will not create a statement of account until after the waiver of penalty has been completed.

2. Amended Tax Amnesty Returns Filed by Underreporters

Amended amnesty returns must only contain amounts not previously reported. When an amended amnesty return is received, RAS will:

- (a) Create a one-time financial obligation (OTM) in IRIS.
- (b) Add amended return amounts online into the OTM, using the "TAP" difference reason.
- (c) Create a self-assessed liability.
- (d) Include the return on a statement of account if the total unpaid tax and interest is greater than \$10.00. RAS staff will include the appropriate bill notes on the statement, including those bill notes specifically created for the amnesty program. If only penalty (or total tax and interest of \$10.00 or less) remains unpaid, RAS will not create a statement of account until after the waiver of penalty has been completed.

3. Waive Penalties after All Amnesty Requirements are Completed

RAS will process a Legal Adjustment in IRIS using the "TAP" adjustment type, when a written authorization is received from CCS.

RAS will also inform the taxpayer the penalty was waived by issuing a notice which will include a standard bill note.

4. RTC Section 6592 Requests for Relief of RTC Section 7073(c) or 7074(a) Penalties

RAS will review requests for relief of RTC section 7073(c) or 7074(a) penalties applied to billings with the exception of consumer use tax liabilities, determinations, secondary/Dual Determinations and Successor Determinations. The requests for relief of penalties will be processed using existing procedures for requests under RTC section 6592. RAS will process the requests on the DIF RR screen in IRIS using the appropriate adjustment type.

5. Cancel/Adjust a 50 Percent Interest Penalty Assessed in Error

RAS will cancel/adjust the erroneously applied penalty with a Legal Adjustment in IRIS using the "PAE" adjustment type. After doing so, RAS will create a notice informing the taxpayer the penalty has been cancelled or adjusted. A standard bill note is available for such notices. (For additional information see section IV.B.1.(d) and Exhibit C.)

6. Reduction in Amounts Reported by Taxpayers with Audits in Process

Some amnesty participants with audits in process may use information contained in the preliminary audit schedules for preparing their amnesty tax returns. Since the information contained on such schedules is preliminary, there will likely be instances where the auditor later determines the taxpayer in fact owes less tax in the amnesty-eligible reporting periods than was originally identified. When this occurs, the overstatement of tax will be considered to have occurred due to a Board "error" and the amnesty returns previously processed may be adjusted downward to the correct amount if that will aid in the processing of the audit. (In instances where no tax was determined to be due for the amnesty-eligible periods, the OTMs previously established for the amnesty-eligible periods will be cancelled.) If the amnesty returns are to be adjusted down to actual amounts in the audit, where possible, RAS staff should use information contained in the final audit report as the source document for such adjustments in lieu of requiring the taxpayer to amend its amnesty tax returns.

If in the situation described above, the taxpayer previously made payments which exceeded the actual (i.e., reduced) tax and interest due for the amnesty-eligible periods, the amounts overpaid would be subject to refund. When this occurs, the ADRS (and not RAS) will be responsible for making any necessary adjustments to amounts previously reported and for processing the taxpayer's claim for refund using existing policies and procedures. Board approval is required if the amount of the refund exceeds \$50,000.

E. SPECIAL PROCEDURES SECTION

1. Escrow Demands

All outstanding liabilities included in a notice of state tax lien must be paid in full. A certificate of release cannot be issued until liabilities are paid in full. When a request for release of lien is received in SPS, the Escrow Desk will review the account to identify which, if any, tax reporting periods are eligible for amnesty. If the taxpayer is participating in the tax amnesty program, the escrow demand will only include tax and interest amounts for the amnesty periods. This is done to avoid collecting penalty amounts that will be cancelled through the tax amnesty program after successful completion by the taxpayer. For liened liabilities not in eligible tax reporting periods, penalty amounts will be included in the demand for

payment. Once the Board's demand for payment has been satisfied in full, SPS will provide the escrow company with a release of lien(s) as requested.

2. Request For Certificate of Release

All outstanding liabilities included in a notice of state tax lien must be paid in full before a certificate of release can be issued. In some instances, the 50 percent interest penalty will be assessed after the notice of state tax lien has been filed. Even though this newly assessed penalty is a direct result of the lien liability, it is not covered by the notice since it was not included in the notice of state tax lien at the time of filing. The penalty would not have to be paid prior to the issuance of a certificate of release that releases the property from the liabilities contained in the notice of state tax lien. However, when certain lien filing thresholds are met, a notice of state tax lien may be filed with respect to the 50 percent interest penalty amount and the priority of that notice of lien will be determined by its filing date. In summary, the Board will issue a certificate of release when the amounts set forth in the notice of state tax lien have been satisfied.

3. 50 Percent Interest Penalty for Secondary Accounts – Pre-Amnesty

Secondary billings (e.g., Dual Determinations, Successor Determinations) issued to secondarily liable taxpayers prior to April 1, 2005, will not contain a 50 percent interest penalty since this penalty cannot be imposed prior to April 1, 2005. On or after April 1, 2005, if neither party participated in amnesty or paid the liability, a RTC section 7074(a) penalty should be imposed when the liability becomes collectible on the primary and the secondary taxpayer based upon the unpaid tax liability as of March 31, 2005. To impose these penalties, the Board should notify in writing both taxpayers of the 50 percent interest penalty amount and not issue a restated determination. However, if the primary taxpayer participates in amnesty and completes the requirements or had an IPA in place as of January 31, 2005, no penalty would be imposed on either taxpayer.

Normally, when SPS processes a Successor Determination billing, the amount billed to the secondary account is limited in IRIS to the purchase price of the business. However, on accounts that are subject to 50 percent interest penalty, the Board may assess this penalty to the secondary taxpayer, even if it causes the overall balance of the secondary taxpayer to exceed the purchase price since the penalty is imposed against the successor due to its failure to participate in amnesty.

4. Amnesty Penalties for Secondary Accounts – Post-Amnesty

A successor or dualee is required to pay RTC section 7073(c) and 7074(a) penalties imposed on the primary taxpayer when the penalties are contained in a Notice of Successor Liability or Notice of Dual Determination issued to the successor or dualee after the close of amnesty (i.e., April 1, 2005). However, a successor receiving a notice after the amnesty period must be relieved of any

penalties imposed on its predecessor, unless the successor is related to the predecessor and a successor's liability is limited to the amount of the purchase price in accordance with Regulation 1702(d)(2). SPS will ensure the appropriate penalties are added during the secondary billing process.

5. Amnesty Penalties for Liabilities Discharged from Bankruptcy

The 50 percent interest penalty imposed pursuant to RTC section 7074(a) does not apply to amnesty-eligible liabilities discharged from bankruptcy prior to April 1, 2005. SPS is responsible for actions necessary to prevent the application of the penalty to discharged liabilities. Prior to the application of the 50 percent interest penalty on or after April 1, 2005, SPS will apply the "AEX" difference status code to liabilities in IRIS that were discharged through bankruptcy. A subsequent IRIS enhancement will create a new difference status code, "DFB" (discharged from bankruptcy), which SPS will apply to discharged liabilities using the DIF ED screen in IRIS.

6. Cancel/Adjust a 50 Percent Interest Penalty Assessed in Error

SPS will cancel/adjust the erroneously applied penalty with a Legal Adjustment in IRIS using the "PAE" adjustment type. After doing so, SPS will create a notice informing the taxpayer the penalty has been cancelled or adjusted. A standard bill note is available for such notices.

F. AUDIT DETERMINATION AND REFUND SECTION (ADRS)

All claims for refund of payments made in the tax amnesty program, claims for refund or adjustment of double penalties imposed pursuant to RTC section 7073(c) and requests for relief of the RTC section 7074(a) penalty will be tracked in the IRIS Appeals Subsystem. The keyword field on the APL MH screen in IRIS should be populated with the code, "AMNST."

Generally, claims for refund must be filed within three years from the due date of the return on which tax was reported, or six months from the date of payment. The ten-year statute of limitation provided by RTC section 7073(d) does not apply to claims for refund. Accordingly, claims will continue to be processed by ADRS consistent with existing statutes and guidelines.

1. Ineligible Claims

Current law provides that taxpayers may file claims for refund for tax and penalties paid during periods eligible for amnesty or otherwise. However, claims for refund are not allowable for penalties paid under the following circumstances:

- (a) In accordance with RTC section 7072(c), taxpayers may not obtain a refund for penalties paid prior to filing an amnesty application. Thus, such claims for refund will be denied.

Claims for refund received at Headquarters filed under the above conditions will be handled by ADRS. Staff will inform claimants that no action can be taken on their request in accordance with the above referenced statutes.

2. Processing Claims for Refunds Involving Amnesty Returns

- (a) RTC section 7073(e) provides that a payment of tax for a liability during an eligible tax reporting period shall not be deemed to constitute an acceptable amnesty application. Consequently, the offset of a refund from one period to another period, which is otherwise eligible for amnesty, does not constitute acceptance of that period for amnesty by the Board.
- (b) Taxpayers may not file claims for refund within the tax amnesty program and expect that such amounts will be credited against tax liabilities within eligible tax reporting periods. Only verified and approved credits or refunds may be applied as payments within the tax amnesty program. The Board will not have sufficient time to process new claims in order to make credits available to taxpayers while they are participating in the tax amnesty program. However, previously filed claims (and any new claims processed in time) that become verified and approved during the tax amnesty program's payment periods can be applied to eligible tax reporting periods under the Board's normal procedures for applying credits and refunds.

G. PETITIONS SECTION

The Petitions Section has primary responsibility for the acknowledgment of new petitions other than claims for refund, and the adjustment of liabilities for which there is an existing petition for redetermination, petition for reconsideration, administrative hearing or late protest. The Petitions Section is also responsible for processing adjustments to determinations that have not been paid in full (excluding CUTS cases under \$5,000), and for relief of penalties on determinations (other than CUTS determinations). The Petitions Section's responsibilities, with respect to the tax amnesty program, include processing RTC section 6592 requests for relief from penalties applied pursuant to RTC section 7073(c) and 7074(a) as discussed below.

1. Appeals and Petitions

The Petitions Section will accept petitions requesting relief of penalties imposed under RTC section 7073(c) and 7074(a) if the determination to which they are applied is also being petitioned pursuant to RTC section 6561. The Petitions

Section will not accept petitions that only challenge the imposition of the double penalty pursuant to RTC 7073(c) or the 50 percent interest penalty imposed pursuant to RTC section 7074(a) since RTC section 6561 does not provide for such a petition. However, the Petitions Section will accept requests for relief of both types of penalties pursuant to RTC section 6592. The Petitions Section will not accept petitions regarding the denial of amnesty, as the law does not provide for petitioning such denial. If the Petitions Section receives a petition request regarding the denial of amnesty, the Petitions Section will forward the request to CCS. Board staff should not instruct taxpayers to file a petition when amnesty has been denied. Any questions regarding the denial of amnesty should be directed to CCS.

2. Appeals Conferences

For appeals cases involving amnesty-eligible tax reporting periods, the Petition Section will prepare an "Amnesty Information Sheet" (Exhibit D). The sheet will be prepared during the summary analysis preparation phase of the case and will provide specific information as identified by the Appeals Division. The information sheet will allow the Sales and Use Tax Department representative attending the appeals conference to concentrate on the disputed issues rather than searching IRIS and/or ACMS for amnesty related information.

3. Waive Penalties after All Amnesty Requirements are Completed

The Petitions Section is responsible for the waiver of unpaid penalties, pursuant to amnesty, on determinations (with the exception of CUTS determinations) in petition status where a written authorization is received from CCS. Waiver of penalties pursuant to amnesty will be processed using the Legal Adjustment function in IRIS with the "TAP" adjustment type.

4. Adjustments to Penalties Applied Pursuant to RTC Sections 7073(c) and 7074(a)

The Petitions Section is responsible for adjustments to any RTC section 7073(c) penalties and unpaid 7074(a) penalties due to any adjustment to the underlying tax and/or penalty, when there is a petition for redetermination, petition for reconsideration, administrative hearing or late protest, or when a determination has not been paid in full (excluding CUTS cases under \$5,000).

5. Relief of Amnesty Applied Penalties Pursuant to RTC Section 6592

When applying for relief of penalties imposed in accordance with RTC sections 7073(c) and 7074(a), taxpayers must comply with the requirements of RTC section 6592. The Petitions Section will process RTC section 6592 requests for relief of RTC section 7073(c) and 7074(a) penalties imposed on deficiencies other than CUTS deficiencies using existing procedures for requests made under RTC section 6592.

6. Cancel/Adjust a 50 Percent Interest Penalty Assessed in Error

The Petitions Section will cancel/adjust the erroneously applied penalty with a Legal Adjustment in IRIS using the "PAE" adjustment type. After doing so, the Petitions Section will create a notice, where appropriate, informing the taxpayer the penalty has been cancelled or adjusted. A standard bill note is available for such notices.

H. CONSUMER USE TAX SECTION

The DMV will direct taxpayers inquiring about the amnesty program to the Board to apply and pay amounts in accordance with the program. DMV will have amnesty applications available on their web site for taxpayers to access and send directly to the Board. See section IV.C., Use Tax – Vehicles for additional information.

With respect to penalties applied to consumer use tax determinations (i.e., Notices of Determination issued on accounts with Taxable Activity Types of SA, SB, SP and SI) pursuant to RTC sections 7073(c) and 7074(a), CUTS is responsible for processing waivers of penalties pursuant to amnesty, adjusting amnesty penalties pursuant to an adjustment of the underlying tax liability, and processing RTC section 6592 requests for relief from penalty.

1. Waive Penalties after All Amnesty Requirements are Completed

CUTS is responsible for the waiver of unpaid penalties on consumer use tax determinations, pursuant to amnesty, where a written authorization is received from CCS. Cancellation of penalties will be processed using the Legal Adjustment function in IRIS with the "TAP" adjustment type.

2. Adjustment of Penalties Applied Pursuant to RTC Section 7073(c) and 7074(a)

For consumer use tax determinations under \$5,000 that have not been paid in full, CUTS is responsible for adjustment to RTC section 7073(c) penalties and unpaid 7074(a) penalties pursuant to any adjustment of underlying tax liabilities.

3. Relief of Amnesty Applied Penalties Pursuant to RTC Section 6592

When applying for relief of penalties imposed in accordance with RTC sections 7073(c) and 7074(a), taxpayers must comply with the requirements of RTC section 6592. CUTS will process RTC section 6592 requests for relief of RTC section 7073(c) and 7074(a) penalties imposed on consumer use tax deficiencies using existing procedures for requests made under RTC section 6592.

CUTS will continue to process RTC section 6592 requests for relief of penalties, other than those imposed in accordance with RTC section 7073(c) and 7074(a),

consistent with existing guidelines subsequent to the amnesty period, whether or not the taxpayer participated in the amnesty program.

4. Cancel/Adjust a 50 Percent Interest Penalty Assessed in Error

CUTS will cancel/adjust the erroneously applied penalty with a Legal Adjustment in IRIS, using the "PAE" adjustment type. After doing so, CUTS will create a notice informing the taxpayer the penalty has been cancelled or adjusted. A standard bill note is available for such notices.

I. INVESTIGATIONS DIVISION

If a taxpayer is under criminal investigation or involved in criminal court proceedings, it does not qualify for amnesty on each eligible tax reporting period under investigation or at issue in the court proceeding. The taxpayer may qualify, however, to participate in the tax amnesty program for eligible tax reporting periods outside the criminal investigation or court proceedings.

For example, if a taxpayer is convicted of a sales and use tax crime for the period January 1, 1999 to December 31, 2001, it could participate in amnesty for the periods before January 1, 1999 and the periods after December 31, 2001 that began prior to January 1, 2003.

ID will identify taxpayers that are either involved in court proceedings or under criminal investigation and send those taxpayers letters notifying them they do not qualify to participate in the tax amnesty program for the eligible tax reporting periods involved. ID will designate in IRIS all accounts that were sent notification letters with a Flag B. Any and all involvement with taxpayers having the Flag B should be referred to ID. ID will provide CCS with a list of all taxpayers sent a notification letter. CCS will refer all taxpayers on the list that file for amnesty to ID. ID will review the amnesty application and notify CCS of what eligible tax reporting periods, if any, qualify for amnesty.

For each reporting period not eligible for amnesty, ID will apply the "AEX" difference status code using the DIF ED screen in IRIS. In addition to identifying those liabilities excluded from amnesty, the "AEX" difference status code will prevent the application of the 50 percent interest penalty.

VI. IRIS SYSTEM

Several IRIS enhancements were necessary to accommodate the provisions of the amnesty program. The main amnesty screen, DIF AM, is primarily used by CCS staff to document information related to a taxpayer's participation in the program. The screen is used to record the date of application, indicate if the taxpayer entered into an amnesty IPA, and identify whether or not a new Board account was created for the taxpayer (i.e., for taxpayers not previously registered with the Board).

The date on which a taxpayer's participation in the amnesty program ended is also captured on the DIF AM screen. For taxpayers that applied for amnesty but did not enter into an amnesty IPA, the amnesty end date is June 1, 2005. For taxpayers that entered into an amnesty IPA, the amnesty end date is the date on which the taxpayer completed its amnesty IPA, or if the taxpayer defaulted on the agreement, the date on which the IPA was terminated.

Along with the DIF AM screen, several new IRIS codes were created. As with many other IRIS codes, the amnesty codes are three characters in length. In a few instances, the same code was used for different types of codes. For example, Difference Status Code "AIP" indicates a liability that was included in an amnesty IPA. "AIP" is also used as a Penalty Type Code and identifies the 50 Percent Interest Penalty. A list of the codes is provided in Exhibit E.

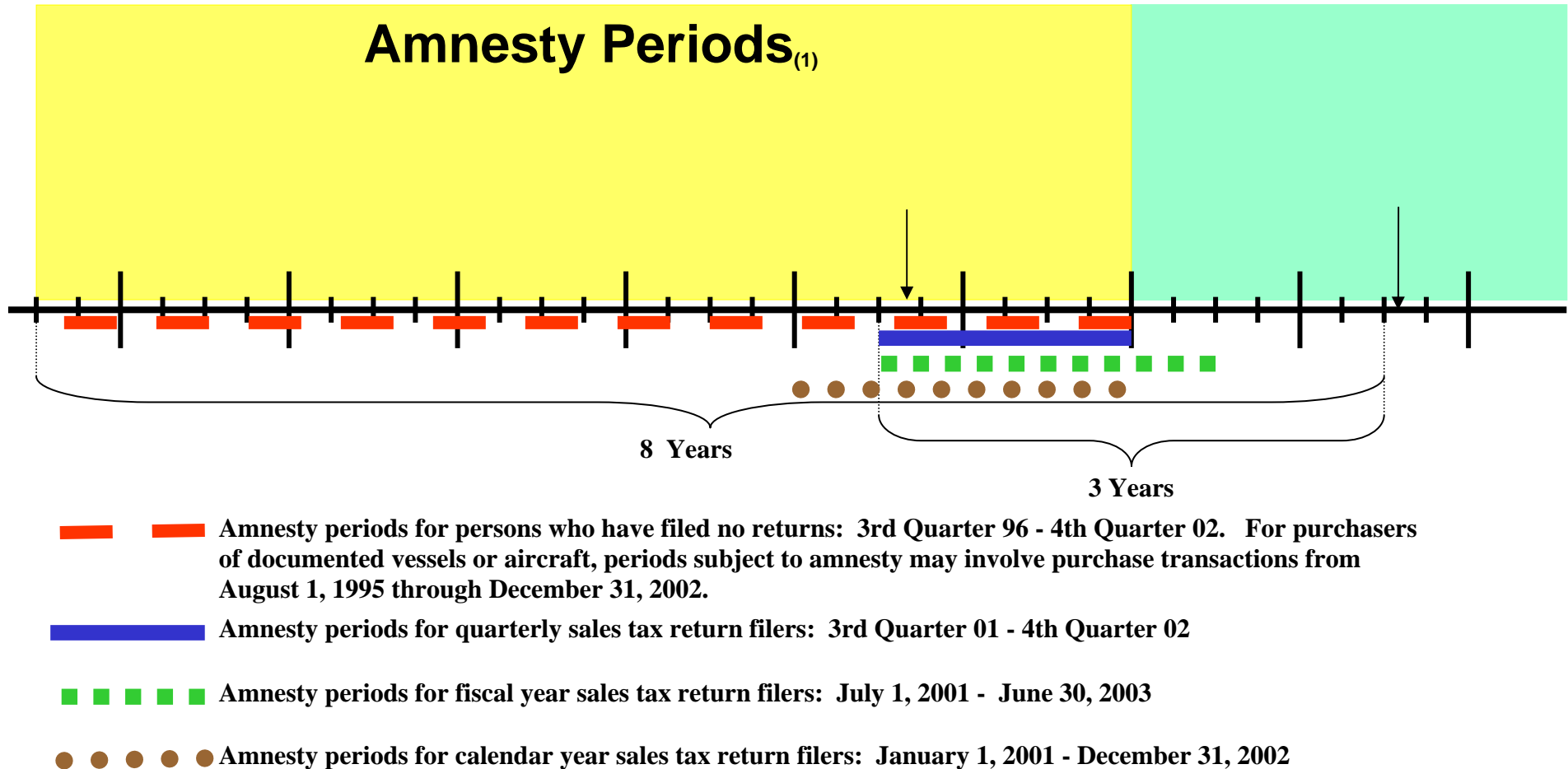
VII. OBSOLESCENCE

This Operations Memo will become obsolete when the information contained herein is incorporated in the appropriate manuals or is obsolete.

Randie L. Henry
Deputy Director
Sales and Use Tax Department

Distribution: 1-D

Amnesty Periods Subject to the 10-Year Statute of Limitation



- (1) Periods open under waivers of limitation on August 16, 2004 are also subject to the 10-year statute of limitation.
- (2) Non-amnesty periods are subject to the normal statute of limitation (i.e., three years for persons who file returns and eight years for persons who did not file returns.)

Auditor Checklist

SCHEDULE
PERMIT
AUDITOR
DATE

	A	B	C	D	E	F	G	H	I	J
REF										

- 1
2 Please make sure to address each of the following:
3
- 4 1. Explain availability of amnesty for sales and use tax
5 ☐ Yes ☐ No If no, please explain
6
7
- 8 2. Explain who is eligible for amnesty
9 ☐ Yes ☐ No If no, please explain
10
11
- 12 3. Explain the periods that are eligible for tax amnesty
13 ☐ Yes ☐ No If no, please explain
14
15
- 16 4. Explain the benefits of filing for tax amnesty
17 ☐ Yes ☐ No If no, please explain
18
19
- 20 5. Explain the penalties including the expanded 10 year statute of limitations if tax amnesty is not filed
21 ☐ Yes ☐ No If no, please explain
22
23
- 24 6. Explain the amnesty application period and process as it relates to the current audit
25 ☐ Yes ☐ No If no, please explain
26
27
- 28 7. Explain the requirements that the amnesty application must be submitted, returns filed, and taxes and
29 interest paid even though audit may not be completed
30 ☐ Yes ☐ No If no, please explain
31
32
- 33 8. Explain the impact for signing the Waivers of Limitation
34 ☐ Yes ☐ No If no, please explain
35
36
- 37 9. Provide taxpayer with a copy of the amnesty brochure
38 ☐ Yes ☐ No If no, please explain
39
40
- 41 10 Provide taxpayer with an amnesty application (BOE-899)
42 ☐ Yes ☐ No If no, please explain
43
44
- 45 11. Direct the taxpayer to other information on tax amnesty on the Board's webpage such as returns, FAQ's,
46 interest calculator, etc.
47 ☐ Yes ☐ No If no, please explain
48
49
- 50 12. Provide taxpayer with a copy of the checklist
51 ☐ Yes ☐ No

To : **Return Analysis Section (MIC 35)**
Consumer Use Tax Section (MIC 37)
Petitions Section (MIC 38)
Special Procedures Section (MIC 55)
CCS – Tax Amnesty Group (MIC 95)

Date: _____

From : _____

TP Name: _____

Subject : Cancel or Adjust Amnesty Penalty (50% Interest Penalty)

Acct #: _____

Cancel the 50% interest penalty applied to the liabilities on the above account because the penalty was assessed in error for the following reason.

Reason (check one)

- ____ 1. Taxpayer applied for amnesty timely. (Attach a completed and signed BOE-135 and, if necessary, a copy of the taxpayer's amnesty application.)
- ____ 2. Taxpayer applied for amnesty and entered into an amnesty installment payment agreement by May 31, 2005.
- ____ 3. Taxpayer was in an installment payment agreement as of January 31, 2005. (Identify each liability requiring cancellation of the penalty, as well as the amount of the penalty that should be cancelled.)

Period	Difference ID	Penalty Amount

Attach a sheet if penalty cancellation needed for additional liabilities.

- ____ 4. Other (attach explanation).

Adjust the 50% interest penalty on the liability identified below from \$_____ to \$_____. This request is based on the detailed tax and interest calculations for amnesty-eligible periods. (Attach documentation to support this recommendation.)

Period	Difference ID

Approved by: _____ **Date:** _____

***Supervisory approval required except for cancellation reasons # 1 & #2.*

HQ Use Only

DIF DD

Statement

AMNESTY INFORMATION SHEET

Taxpayer:
dba:

Account No.:
Appeals Case Id:

IRIS SCREEN
SOURCE*

- | | | | |
|--|----------------------------|----------------------------|----------------|
| 1. Amnesty Application Acknowledged? | <input type="checkbox"/> Y | <input type="checkbox"/> N | DIF AM |
| 2. Amnesty Eligible Period: _____ through _____ | | | DIF DA |
| 3. Amnesty Amounts (tax, interest, & penalty) Tax: \$ | | | AUD IA |
| Diff ID: Interest: \$ | | | |
| Penalty: \$ | | | |
| 4. Tax and Interest Paid in Full:
If yes, skip #5. | <input type="checkbox"/> Y | <input type="checkbox"/> N | AUD IA |
| 5. Installment Payment Agreement Secured:
If yes, enter "n/a" for #7. | <input type="checkbox"/> Y | <input type="checkbox"/> N | DIF AM |
| 6. Total payments applied to Determined liability: \$ | | | DIF DD |
| 7. Amnesty 50% Interest Penalty Amount (if applicable) **: \$ | | | AUD IA/CA |
| 8. Request for Relief of Amnesty 50% Interest Penalty filed? | <input type="checkbox"/> Y | <input type="checkbox"/> N | CASE FILE |
| 9. Determination includes extended periods
based on 10-year statute of limitations: | <input type="checkbox"/> Y | <input type="checkbox"/> N | AWPS
AUD GC |

Prepared by:

Title:

Date Prepared:

*IRIS screen sources are not all inclusive. Information may also be found in other IRIS screens.

****Appeals Section:** Please be aware that the information provided was compiled based on the best information available at the preparation date. Actual amounts may vary as additional information becomes available and is posted to IRIS. The final amount of the amnesty 50% interest penalty can only be determined after all adjustments are considered and the closing notice is prepared.

IRIS Codes – Tax Amnesty Program

Code	Description	Comments
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Difference Reasons

TAA	Amnesty Amended Return – Audit	Period was included in an audit in process.
TAP	Amnesty Amended Return	

Difference Statuses

AEX	Excluded from Amnesty	Difference not eligible for amnesty. Prevents application of amnesty penalties.
AIP	Amnesty Installment Payment Agreement	Taxpayer participated in amnesty and entered into an amnesty IPA. Prevents amnesty penalties from applying to the difference. The status will remain on the difference even after the taxpayer has completed its IPA or its IPA has been terminated.
AMN	Amnesty Eligible	Difference eligible for amnesty.
AMP	Amnesty Participant	Taxpayer applied for amnesty and difference is included in taxpayer's participation in the program.
DFB	Discharge from Bankruptcy	Prevents amnesty penalties from applying to the difference.
PTP	Promise to Pay	Indicates difference was included in a pre-amnesty IPA. Prevents amnesty penalties from applying to the difference.

Penalty Types

AIP	Amnesty Interest Penalty	50% Interest Penalty
ACT	Double Amnesty Catering Truck	
AFF	Double Amnesty Failure to File	
AFL	Double Amnesty Florist Failure to Obtain	
AFN	Double Amnesty Finality	
AFR	Double Amnesty Fraud	
AMU	Double Amnesty Misuse of Resale Certificate	
ANG	Double Amnesty Negligence	
ANP	Double Amnesty Negligence Prepay	
APE	Double Amnesty No Permit Intent to Evade	
APM	Double Amnesty Additional Prepay Negligence	
ASW	Double Amnesty Swap Meet Operator	
AVA	Double Amnesty Vehicle, Vessel, Aircraft	

Notice Types

STM	Tax Amnesty Opportunity – Bankruptcy	Mailed to taxpayers with amnesty eligible liabilities that were in bankruptcy.
STN	Tax Amnesty Opportunity	Amnesty application (BOE-898) and statement of account.

Difference Adjustment Types

PAE	Amnesty Penalty Applied in Error	
TAP	Tax Amnesty Penalty Adjustment	Taxpayer fulfilled amnesty requirements and received waiver of penalty.

Audit Offset Type

TXAM	Tax Amnesty for SUT	
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Appeals Keyword

AMNST	Claim Involves Amnesty Reporting	
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